* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 1302/2004 & IA No.3742/2005

MCDONALDS CORPORATION & ORS. ..... Plaintiffs
Through: Mr. S.S. Rana with Ms.B.Rana, Advs.

versus

ASHOK KUMAR JAIN & ORS. ..... Defendants
Through : Mr. Kapil Kumar Singh, Adv. for D-1, 2 & 4.

CORAM:
HON'BLE MR. JUSTICE T.S. THAKUR

ORDER

% **10.05.2005**

This is a suit for permanent prohibitory injunction restraining the defendants, their partners, proprietors, representatives and employees from infringing or using the first plaintiff's copyright in the artistic work of Corporate logo M as shown in Annexure-A to the plaint or using or publishing Corporate logo M with i in the same style and shape as shown in Annexure B to the plaint. A decree for permanent injunction restraining the defendants from infringing the plaintiff's registered trade mark McDonald's & Corporate logo M and Corporate logo M as shown in Annexure A to the plaint by using the Corporate logo M with i and HAPPY FRIENDS in relation to their goods or business has also been prayed for. In addition the plaintiffs have prayed for a decree for a sum of Rs.21 lacs by way of damages for infringement and passing off the defendants business and goods as the business and goods of the plaintiff.

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A joint petition has been filed by the plaintiffs and defendants 1, 2 & 4. It is submitted by the counsel for the plaintiff that since defendant No.3 is said to a non-existent entity, they may be permitted to delete the said defendant from the array of the defendants and the suit decreed on the basis of the settlement arrived at between the plaintiffs on the one hand and defendants 1, 2 & 4 on the other. Having heard learned counsel for the parties and having perused the record, I see no reason to decline that prayer. Since defendant No.3 is according to counsel for the remaining defendants a non-existent entity, the plaintiff is permitted to delete the said defendant from the array of the defendants.

In the joint petition filed by the plaintiffs and defendants 1, 2 & 4 the later have agreed to suffer a decree to the following effect:-

> " a) pass a decree for permanent injunction restraining first, second and fourth defendants, their partners, proprietors, agents, servants, representatives and employees or any one claiming under them from in any manner infringing/using the first plaintiff's copyright in the artistic work of Corporate logo M as shown in Annexure A to the plaint, by using, publishing Corporate logo M with i in the same style and shape as shown in Annexure B to the plaint;
>
> b) pass a decree for permanent injunction restraining first, second and fourth defendants, their partners, proprietors, agents, servants, respresentatives and employees or any other claiming under them, from in any manner infringing the first plaintiff's registered trade marks, McDonald's & Corporate logo M and Corporate logo M as shown in Annexure A to the plaint, by using the Corporate logo M with i in relation to their goods or business as shown in

Annexure B to the plaint"

The plaintiffs have on their part agreed not to press the reliefs claimed by them in para c to f of the plaint. In the circumstances, therefore, I decree the suit in terms of paras a & b abstracted above and dismiss the same as withdrawn insofar as prayer c to f of the plaint are concerned. Para 3 of the joint petition shall form a part of the decree. No costs.

T.S. THAKUR, J

MAY 10, 2005
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